

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**BILLY MARQUIS, ALEXIS MARQUIS
ANTHONY MARQUIS INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

PLAINTIFFS

V.

**AMY SADEGHIAN AND KHOSROW
SADEGHIAN, d/b/a KAMY INVESTMENTS,
KAMY REAL PROPERTY TRUST and
KAMY REAL ESTATE TRUST**

DEFENDANTS

[illegible]

**CIVIL ACTION NO.
4:19-CV-00626-RWS**

**DEFENDANTS MOTION FOR ATTORNEYS' FEE AWARD
FOR DISMISSAL OF PLAINTIFFS' DTPA CLAIM**

TO THE HONORABLE U.S. MAGISTRATE JUDGE:

COMES NOW, Khosrow and Amy Sadeghian, and move the Court to award them their reasonable and necessary attorneys' fees pursuant to §17.50(c) of the DTPA, Tex.Bus.& Comm.Code, and in support of same would show:

1. Plaintiff filed their Third Amended Complaint (Dkt. 151) asserting claims under the FLSA, for negligence/premises liability and the DTPA.
2. Defendants filed their Motion for Summary Judgment, *inter alia*, on Plaintiffs' DTPA claim, asserting that its filing was beyond the two-year statute of limitations, §17.565 of the DTPA (Dkt. 176).

3. By Opinion and Order dated April 10, 2023, the Court dismissed the Plaintiffs' DTPA claim on the basis that it was clear under the factual recitals in Plaintiffs' Third Amended Complaint that it was barred on its face by limitations (Dkt. 206, at p. 22).

4. The remainder of the case proceeded to jury trial on April 17, 2023.

5. Lead counsel for Defendants has submitted his Declaration addressing the amount of time spent by defense counsel in seeking summary judgment on Plaintiffs' DTPA claim (appended to this Motion), and seeks an award from the Court on defense counsel fees and expenses in defending against Plaintiffs' DTPA claim pursuant to §17.50(c) of the DTPA.

ARGUMENT AND AUTHORITIES

6. The court in *Scott v. Hunt*, 2012 Tex.App. LEXIS 2226 *17 (Tex.App.-Houston [1st Dist. Mar. 22, 2012) upheld an award of attorneys' fees under §17.50(c) of the DTPA where, like here, the DTPA claim was dismissed on summary judgment, finding that the filing of such claim was groundless or filed in bad faith. *Id.*, at *21.

7. Pursuant to the analysis and holding in *Scott*, the Court should enter its order awarding Defendants their reasonable and necessary attorneys' fees and expenses incurred in defending against Plaintiffs' DTPA claim §17.50(c) of the DTPA.

Respectfully Submitted,

Clark Firm, PLLC
5445 La Sierra Drive, Suite 415
Dallas, Texas 75231
T: (214) 890-4066
F: (214) 853-5458
<http://www.dfwlaborlaw.com>



Steven E. Clark
sclark@dfwlaborlaw.com
State Bar No. 04294800

Attorneys for Defendants

CERTIFICATE OF CONFERENCE

I hereby certify that prior to filing this Motion that I conferred with Plaintiffs' counsel, Eugene DuBose, who is not in agreement with the relief requested.



Steven E. Clark

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document has been served on Eugene Zemp DuBose, counsel for Billy Marquis via the court's efilings system on this 22nd day of June 2023.



Steven E. Clark